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Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to El Salvador

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to El Salvador from 18 to 29 April 2016. On the basis of information gathered prior to and during her visit, she highlights the encouraging steps taken by the Government to prevent and eradicate contemporary forms of slavery, including significant reductions in the worst forms of child labour, developments in the national legal and institutional framework and efforts to put a stop to forced labour. The Special Rapporteur makes recommendations to the Government of El Salvador on how to continue and build on that progress through a comprehensive and multifaceted programme of action that includes steps to eradicate and prevent all contemporary forms of slavery.

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Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to El Salvador*

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* Circulated in the language of submission and in Spanish only.

I. Introduction

1. Pursuant to Human Rights Council resolution 24/3, and at the invitation of the Government, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, undertook a visit to El Salvador from 18 to 29 April 2016. During the visit, the Special Rapporteur collected first-hand information on the prevalence of contemporary forms of slavery within the country. Her meetings with national stakeholders allowed her both to identify the challenges that the country faces in relation to the eradication of all contemporary forms of slavery and to make recommendations to the Government on how to improve the situation.

2. While the Special Rapporteur was in El Salvador, she met with a broad range of stakeholders. They included representatives of the Foreign Ministry, the Office of the President, the Ministry of Justice and Public Security, the Ministry of Education, the Ministry of Labour and Social Security, the Ministry of the Interior and Territorial Development, the Directorate General for Migration and Alien Affairs, the Office of the Human Rights Advocate, the National Civil Police, the Technical Committee of the National Council on Trafficking in Persons, the National Council for Children and Adolescents, the Salvadoran Institute for the Advancement of Women, the Counsel General, the Supreme Court, and the Justice and Human Rights Legislative Committees of the Legislative Assembly.

3. She also met with representatives of the United Nations country team, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the International Organization for Migration, the United Nations Fund for Population Activities, the United Nations Development Programme (UNDP), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), trade unions, private sector associations, victims of contemporary slavery and a range of non-governmental organizations.

4. During her visit, the Special Rapporteur met with interlocutors in San Salvador, as well as visiting Puerto El Flor, the city of Usulután and Puerto Parada. During the visits outside the capital, she met with local government officials, staff of non-governmental organizations working in the region, communities affected by issues relating to her mandate and community leaders. She also visited labour sites to observe mollusc fishing, where children are reported to be engaged in the worst forms of child labour.

5. The Special Rapporteur extends her sincere gratitude to the Government of El Salvador for the invitation and the spirit of openness that characterized her interactions with all government institutions and officials. In addition, she is grateful to all the stakeholders who took the time to meet with her and discuss issues of relevance to her mandate within the country.

II. Legal and institutional framework

A. Legal framework

6. El Salvador has signed or ratified many of the international human rights instruments relevant to contemporary forms of slavery. Although it is not a signatory to the 1926 Slavery Convention, El Salvador signed the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery on 7 September 1956. It has also ratified a number of relevant human rights instruments, including the Convention on the Rights of the Child, the International Covenant on Civil

and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Elimination of All Forms of Discrimination against Women. El Salvador has in addition ratified the eight fundamental ILO Conventions, including the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105) and the Worst Forms of Child Labour Convention, 1999 (No. 182). El Salvador has also ratified a number of instruments within the inter-American system. There is however a gap in that it has only signed but not ratified the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. The Special Rapporteur received information during her visit indicating that the country is taking steps to ratify the ILO Domestic Workers' Convention, 2011 (No. 189).

7. Article 144 of the Constitution of El Salvador provides that international treaties that the country ratifies are deemed to be incorporated into domestic law. The Special Rapporteur noted that there are specific national legal provisions broadly relating to the eradication of contemporary forms of slavery. They include the prohibition of slavery, servitude and the slave trade in the Constitution, the criminalization of forced labour and the worst forms of child labour in the Labour Code, the detailed list of the hazardous types of work that are prohibited for children under Agreement No. 241 of 2011, the 2011 Child and Adolescent Protection Act, which establishes a national system for child protection, the 2014 Special Act on Trafficking in Persons, and the 2011 Act on Equality, Equity and Elimination of Discrimination against Women.

8. While the Special Rapporteur commends the Government for the comprehensive legal framework that prohibits slavery and forced labour, she notes that specific focus on contemporary forms of slavery is weak, in that the emphasis remains on related practices and institutions. El Salvador has robust legal provisions relating to human trafficking, migration, child protection, violence against women, gender equality and protection against forced labour, but emphasis on contemporary forms of slavery is weak, as discussed below. Although those phenomena result in vulnerability to slavery, the specific manifestations of slavery have to be addressed. In her recommendations, the Special Rapporteur urges the Government to develop a holistic approach to eradicating contemporary forms of slavery as specific practices and to ensure that dedicated provisions to combat them are developed within the legal framework (see section V below).

B. Institutional framework

9. The Salvadorian State is divided into three branches: the executive, legislative and judiciary, and has 14 departments and 262 local government authorities. Each branch has autonomous decision-making powers and is supported by various administrative institutions. The institutions that are relevant to the mandate and that ensure institutional coherence across the three branches include the Salvadorian Institute for Comprehensive Child and Adolescent Development, the National Council on Trafficking in Persons, the National Council for Children and Adolescents, the National Committee on the Elimination of the Worst Forms of Child Labour, and departmental and local committees for the rights of children and adolescents established under the Child and Adolescent Protection Act. The Office of the Human Rights Advocate, an A status national human rights institution, is another key institution that is promoting and protecting human rights in El Salvador.

10. As the institutional framework broadly mirrors the legislative framework in El Salvador, the Special Rapporteur again noted that the specific focus on contemporary forms of slavery was weak, with attention tending to be on related phenomena. She therefore recommends that the Government deepen the specific focus on contemporary forms of

slavery. The Special Rapporteur received some information about gaps and issues relating to the efficiency of the institutional framework, such as provisions relating to education and child protection, which are discussed in section III below.

III. Key cross-cutting challenges

11. The Special Rapporteur was aware that she was visiting El Salvador at a deeply challenging time during which the Government was facing a range of complex, intersecting and mutually reinforcing difficulties. The challenges increase individuals' vulnerability to situations of contemporary slavery and the prevalence of multiple forms of servitude. The most striking and pertinent challenges about which the Special Rapporteur received information are discussed below.

A. Gang violence

12. In El Salvador there are two main gangs (*maras*) operating, known as the Mara Salvatrucha and Barrio 18. Stakeholders who met with the Special Rapporteur estimated that they each have around 70,000 members. As has been widely reported in the international media, gang violence between and by those *maras* has recently escalated in El Salvador. During her visit, the Special Rapporteur received disturbing reports of extortion, intimidation and violence perpetrated by gangs, including extortion of citizens and State officials, murder, including femicide, multiple forms of violence against women, extortion, violence and vandalism in schools, and the establishment of territorial control in some regions, which has impeded citizens' access to education, health and other State services.

13. The information received by the Special Rapporteur about gang activities included reports of practices that prima facie constitute contemporary forms of slavery and are prohibited under international human rights law. Such practices are discussed in section IV below. Beyond the issues of direct concern to her mandate, the Special Rapporteur was aware of the far-reaching impact that gang violence is having on the country. The effects were reported to include increases in precarious migration, including among unaccompanied children, depletion of the State's financial and technical capacity, disruption to children's education, constriction of shared public space, and deepening of gender inequality and of women's and girls' vulnerability to violence. Those phenomena will have a deep, long-lasting impact on Salvadoran citizens' vulnerability to multiple forms of contemporary slavery.

14. The Special Rapporteur discussed with many stakeholders the Safe El Salvador Plan, adopted by the Government and its partners to tackle the escalating gang violence and address other forms of violence in the country. The comprehensive plan focuses on five key areas, namely prevention of violence, criminal punishment, rehabilitation and reintegration, victim protection and assistance, and institutional enforcement. The plan, which was developed by the National Council for Citizen Security and Coexistence, contains a range of short, medium and long-term actions. The Special Rapporteur commends the Government for the development of the comprehensive and holistic plan and the inclusion of preventive elements, access to justice and care for victims and respect for human rights. As detailed in section V below, she urges the Government and all its partners to ensure the full and timely implementation of the plan as a key part of tackling and preventing slavery, and ensuring the effective protection of citizens against slavery and slavery-like practices.

B. Economic challenges, including severe fiscal constraints

15. While El Salvador is recognized as being a middle-income country, it currently faces a number of economic challenges. The country's economy has fared poorly since the outset of the global recession in 2009 when gross domestic product (GDP) contracted. Subsequent recovery has been weak with GDP growth averaging 2 per cent between 2010 and 2014, leading the Government to seek support from the International Monetary Fund, the World Bank and the Inter-American Development Bank.[1] Since 2015, GDP growth has increased marginally, but economic progress has been threatened by severe drought, a fungal attack on coffee harvests and declining levels of tourism due to concerns about security and the outbreak of the Zika virus. There is also a high level of continuing inequality within the country, with 31.8 per cent of the population classified as living in poverty despite the country having one of the largest economies in the Central American region.[2]

16. The gang problems also pose a threat to the economic growth of El Salvador. A study by UNDP and the central bank of El Salvador suggested that gang activity cost the country 16 per cent of its GDP through extortion money paid to gangs, productivity lost as a result of individuals being deterred from working owing to violence and the money spent by households and businesses on private security.[3] Gang violence also deters international investment and potential subsequent job creation because of the perceived risks and challenges associated with doing business in the country.

17. The complex economic difficulties faced by El Salvador include significant fiscal constraints. While meeting with stakeholders from across Government, the Special Rapporteur was often informed about the lack of available funds to tackle socioeconomic problems relating to contemporary forms of slavery and to invest adequately in the State's capacity to prevent human rights violations. According to the information received by the Special Rapporteur during her visit, the State faces a number of challenges in securing fiscal resources, including weak taxation systems, a small tax base due to high unemployment and a large informal sector, and a high level of external debt. During many of her meetings, the Special Rapporteur was struck by the commitment of government officials to taking preventive measures to protect and promote human rights, but noticed that they were constrained in their ability to do so because of the lack of fiscal resources.

18. The combination of those economic factors has a negative impact on people's vulnerability to slavery and the prevalence of servitude. The deterioration in the general economic climate in El Salvador has reportedly reduced decent work opportunities and the household income of many families. That increases the likelihood of people being trapped in situations of forced labour and can increase incidences where families have children engaged in the worst forms of child labour. Those most affected by economic challenges are also more vulnerable to forms of servitude perpetrated by gangs, as they do not have the resources to protect themselves from violence, through for example the purchase of private security services.

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[1] See http://country.eiu.com/article.aspx?articleid=1243911708&Country=El%20Salvador&topic=Economy&subtopic=Forecast&subsubtopic=Economic+growth&u=1&pid=1183833302&oid=1183833302&uid=1

[2] See http://data.worldbank.org/country/el-salvador

[3] See www.economist.com/news/americas/21699175-countrys-gangs-specialise-extortion-they-may-be-branching-out-gangs-cost

C. Gaps in education and the comprehensive protection of the child

19. One effect of the lack of fiscal resources on people's vulnerability to servitude in El Salvador is the difficulties the State faces in tackling gaps in the country's education system. The Special Rapporteur understands from her meetings that the Government recognizes the importance of education and its pivotal role in the future development of the country. She received information about a range of programmes and policies in place to give effect to the right to education in El Salvador, such as the five-year plan on education. However, interlocutors she met with consistently described significant gaps in the education system. They described how in many regions, particularly those in rural areas and those that are most affected by gang violence, secondary education facilities are not widely available, which affects a large number of adolescents. Many stakeholders described difficulties accessing schools in territories controlled by rival gangs, resulting in adolescents choosing to drop out or being compelled by their parents to do so. For example, when the Special Rapporteur met with Salvadoran citizens living in Usulután, parents described their concern that their children would not be able to access schools when they got older.

20. Furthermore, the Special Rapporteur received information that suggested that gang activities in schools are disrupting education services in El Salvador. That included reports of recruitment, extortion and violence in schools, as well as vandalism and theft of educational materials. The Special Rapporteur also received information that suggested that other challenges compounded the barriers to education created by gang violence. They are reported to include weaknesses to school infrastructure due to physical damage suffered during the civil war, the lack of a State policy on early childhood education and an absence of vocational training options for those looking to prepare to join the workforce. The Special Rapporteur strongly believes that education plays a fundamental role in the prevention of all forms of contemporary slavery and recommends that the Government of El Salvador continue its efforts to build a comprehensive and effective education system that spans early childhood to young adulthood.

21. In addition to concerns about the education system, the Special Rapporteur received information about weaknesses in the child protection system. She recognized the efforts that had been made to develop a national child protection system since the passing of the Child and Adolescent Protection Act. However she noted stakeholders' concerns about a lack of capacity to deal with complaints relating to child protection and gaps in the protection system, particularly for the most vulnerable groups.

D. Gender discrimination

22. The Special Rapporteur observed that many human rights violations relating to contemporary forms of slavery disproportionally affect women in El Salvador and she received reports about continuing gender discrimination in the country. According to information received, women face patriarchal attitudes and gender stereotypes, as well as barriers to gaining an education and decent work opportunities in the labour force. Reports of the structural barriers to empowerment that women face are confirmed by data collected by UNDP. Information collated for the 2014 Human Development Index suggested that in El Salvador, the mean number of years of education was 6.2 for females compared with 6.9 for males. Furthermore the proportion of those with a secondary education was 36.8 per cent among females compared with 43.6 per cent among males. Labour market figures mirrored those trends, with participation at 47.8 per cent for females and 79 per cent for males.[4]

[4] See http://hdr.undp.org/en/countries/profiles/SLV

While the Special Rapporteur recognizes the efforts the Government has made to tackle gender inequality, including through enacting legislation on equality and non-discrimination and establishing the Salvadoran Institute for the Advancement of Women, she urges the Government to continue to build on the progress achieved and to ensure that no regression occurs in relation to the human rights of women.

23. Including women in all levels of State activity sets a good example and helps to combat gender-based discrimination and improve protection against violence and exploitation. The Special Rapporteur received information that suggests that the number of women in State and political institutions is increasing, and she saw evidence of female decision makers in the different State entities with which she met while in the country. She received information about the 2013 Political Parties Act, which stipulates quotas for women's participation in a number of electoral processes and has resulted in more female politicians. Government data suggests that during the 2009-2012 legislative period, the number of female politicians was 19 per cent. It rose to 24.7 per cent for the 2012-2015 period and then to 32.1 per cent for the 2015-2018 period. In addition, for the 2009-2014 period, five women were in the Cabinet and for the 2014-2019 period, that number has increased to eight. The Special Rapporteur commends the Government of El Salvador for that progress and urges it to continue and build on it. The current level of women's representation is a positive development, but there is scope for further progress in all State governance and decision-making bodies. Furthermore, the Special Rapporteur received information that suggested that gender and women's rights were not consistently mainstreamed into all budgets, laws, policies and programmes. She therefore recommends that the Government develop gender sensitivity across all of its activities, with particular focus on initiatives to prevent and tackle all forms of contemporary slavery.

24. Gangs were described to the Special Rapporteur as being deeply patriarchal power structures that reportedly regard women as commodities only, resulting in women never gaining positions of influence in gangs and routinely being sexually exploited and forced to collect extortion money. Such deep gender discrimination affects women's vulnerability to slavery-like practices in the context of gang activities (as described in section IV below) and to more generalized forms of violence perpetrated against women by gang members, including femicide, sexual violence, disappearances and domestic abuse. In addition, given the strong and apparently increasing influence of gangs over the general population, particularly young people, such attitudes are likely to be influencing broader attitudes towards women and girls and increasing women's and girls' overall vulnerability to violence.

E. Complex migration flows

25. El Salvador is a country with a very high level of outward migration. A significant proportion of emigration was driven by the 12-year civil war that ended in 1992. It is estimated that 25 per cent of the population emigrated or fled during the conflict. Remittances from emigrants are a very important source of revenue for the country and are estimated to constitute 17 per cent of GDP.[5] Having such a pronounced Salvadorian diaspora has continued to drive emigration from El Salvador as people seek better economic opportunities and the chance to reunite with their families.

26. The trend in continued emigration has recently been complicated by reported increases in the number of people, including children and adolescents, fleeing gang violence. A number of stakeholders verbally reported to the Special Rapporteur that

[5] Ibid.

increasing numbers of people are using precarious and unsafe migration routes to try to escape gang violence. Those individuals were reported to include unaccompanied children and women who are trying to escape slavery-like practices, such as sexual servitude and forced recruitment by gangs. The use of *coyotes*, smugglers who take payment to assist people in reaching the United States of America, is reported to be increasing. The use of unsafe routes leaves people vulnerable to exploitation and forms of slavery while in transit, as discussed in section IV below. A number of stakeholders with whom the Special Rapporteur met described slavery-like practices in transit from El Salvador. Vulnerable, irregular migrants are often not able to enter target States, the most common being the United States. Those who do physically enter their destination country are often returned to El Salvador following the rejection of their asylum claims. The Special Rapporteur was informed that about 200 to 250 Salvadorans are returned every day. Many people are reported to try to enter the United States multiple times, which puts them at risk of multiple violations of their human rights and has a negative impact on the economy and the social fabric of El Salvador (as discussed below), as well as creating vulnerability to slavery and human trafficking.

27. While migration in El Salvador is strongly characterized by emigration, the Special Rapporteur received reports of immigrants who come to the country, mainly from Guatemala and Honduras. Information received by the Special Rapporteur suggested that the Government of El Salvador had taken steps to regularize those migrants and develop provisions to ensure that they could claim their rights on the same basis as Salvadoran citizens. However, as discussed in section IV below, those immigrants can be vulnerable to contemporary forms of slavery, most commonly domestic servitude. Therefore, the Special Rapporteur recommends that the Government expand protections and dedicate specific resources to preventing domestic servitude among migrant workers.

F. Disintegration of the social fabric

28. Stakeholders who met with the Special Rapporteur described what they referred to as the continuing disintegration of the social fabric in El Salvador. Many of them talked about the reduced capacity of families and communities to protect themselves and contribute to the development of the economy and society. The Special Rapporteur also received information about a lack of social infrastructure, including the gaps in the education system described above, and an absence of safe, shared public spaces, such as parks and sports fields.

29. Factors cited as contributing to the disintegration of the social fabric include a high level of emigration, family separation due in part to that outward migration, the legacy of the 12 years of civil war, high levels of impunity for certain human rights violations and the increasing prevalence of gang violence and its far-reaching effects on society, as discussed above. The disintegration was said to be providing fertile ground for gangs, thus creating a vicious cycle in which the gangs contribute to and benefit from the social destabilization.

IV. Issues of concern and positive developments in relation to contemporary forms of slavery

30. During her meetings with a wide range of stakeholders, the Special Rapporteur received information about a number of different forms of contemporary slavery, including violations perpetrated in the context of gang activities, and a number of different labour-related forms of servitude. Information received by the Special Rapporteur suggested that such violations were not always recognized as contemporary forms of slavery and that they affected highly vulnerable and at times invisible populations. The Special Rapporteur also

received much information that suggested that women and children were invariably disproportionality affected by the complex spectrum of violations identified.

31. While the Special Rapporteur identified several areas of concern in relation to her mandate, it was clear that significant positive progress had been made in a number of areas. She commends the Government of El Salvador for the progress, which is highlighted alongside the issues of concern below.

A. Slavery-like practices in the context of gang violence

32. While in El Salvador, the Special Rapporteur received multiple reports indicating that, within the context of the increasingly widespread gang violence, there were a number of forms of slavery-like practices.

33. One such practice is the enslavement of young women and girls. Extremely high levels of gender-based discrimination and violence against women perpetrated by gang members were reported to the Special Rapporteur. Such subjugation of women allegedly includes forcing young women and girls to become gang members' sexual partners. Failure to comply is reportedly met with severe reprisals, including homicides of the girl's or woman's entire family or the threat of such violence. The most common form of extreme extortion of sexual and other services described by the interlocutors involves forcing them to provide sexual services to gang members in prisons. Gang members reportedly threaten women and their families with violence or death in order to force them to repeatedly make conjugal visits to gang leaders and members in prisons. In many instances, they are also forced to smuggle telephones and weapons into the prisons. In some situations, women and girls are reportedly forced to comply with a regular schedule of conjugal visits compiled by gangs. Some young girls in school have been told they have been selected as a "gift" for a gang leader. As a result, one mother of young girls told the Special Rapporteur that she would not allow her daughters to attend secondary school for fear of them falling prey to gangs that target girls in schools. The Special Rapporteur notes legislative efforts to increase the regulation of prison visitation under chapter III of the 2015 Prisons Act, including the power to suspend prison visits and carry out checks to verify the marital status of those requesting conjugal visits. However, she received reports that suggested that gang members were able to have female victims visit them in prisons without sufficient supervision or regulation. She therefore urges the Government to ensure that the relevant provisions of the 2015 Prisons Act are fully and effectively implemented.

34. The Special Rapporteur also received information that suggested that other modalities of sexual slavery-like practices among gang members had been seen in the country. For example, she was told of instances in which gang members had physically invaded the homes of women, evicted or killed male members of the household and forced the women to work in domestic and sexual servitude.

35. The Special Rapporteur received disturbing information about slavery-like practices perpetrated by gangs against children and others who were forcibly recruited to gang structures. Young children are reported to be targeted by gangs because the age of criminal responsibility means that they are less vulnerable to prosecution. The children are reported to be recruited in their schools and communities. Stakeholders informed the Special Rapporteur that gangs used violence and the threat of violence against children and their families to force individuals to join gangs and undertake criminal activities, including looking out for the police, collecting extortion money and transporting drugs. Forced participation in gang activities was also reported to the Special Rapporteur to affect women. The Special Rapporteur was repeatedly told that once children and women are forcibly recruited into gang structures, they are not able to leave, therefore becoming locked into dangerous, exploitative and dehumanizing situations.

36. The Special Rapporteur is alarmed by such reports and believes that they prima facie constitute slavery-like practices. While acknowledging the development of the Safe El Salvador Plan, she recommends that the Government, in addition to implementing the plan, consult with all key stakeholders, including women and children who have been affected by such practices, in order to develop a comprehensive programme of action to specifically address such slavery-like practices and enhance protection for women and girls. Furthermore, she recommends that the Government increase prosecution rates for such crimes and ensure that they are legally recognized as slavery-like practices.

B. Forced labour

37. The Special Rapporteur received information indicating that extremely exploitative labour conditions exist in certain sectors, including the *maquila* sector, home-based embroidery and private security companies. The Special Rapporteur gained the impression that some practices within those sectors are so deeply exploitative that she is concerned that they are indicative of the presence of forced labour.

38. *Maquilas* are garment production facilities commonly located in export processing zones, areas where companies can establish production facilities under favourable conditions. The export processing zones were established after the civil war as a way of attracting international investment to El Salvador. The practice has led to the development of the *maquila* sector, which is currently reported to employ around 70,000 persons and produce around 12 per cent of GDP.[6] The *maquilas* in El Salvador are reported to be part of the supply chains for major international garment manufacturers. The extensive use of *maquilas* has been seen across Central America, with the majority of workers being young women.

39. In El Salvador, women are reported to constitute 78 per cent of workers in *maquilas*.[7] Those women are often from disadvantaged communities in rural areas and have a low level of education. While some people who met with the Special Rapporteur suggested that conditions for women in *maquilas* had improved in recent years following international attention on the sector, many reported ongoing exploitation and practices that the Special Rapporteur assessed as being potentially indicative of forced labour. They include extremely long working hours without being able to take breaks, high production quotas for workers, which continually increase, non-payment of workers who do not reach the production quotas, and the sudden closure of factories without notice or payment of outstanding wages. The Special Rapporteur was concerned about information that suggested that the rights of people to exercise freedom of association and peaceful assembly were curtailed in the *maquila* sector by strong anti-union practices, hazardous working conditions and non-payment of social security contributions to the State, despite equivalent deductions being taken from workers' salaries.

40. Also related to the manufacturing of garments within global supply chains, the Special Rapporteur received concerning reports about women who are contracted to embroider fabric in their own homes. Those workers, who like those in *maquilas* are predominantly women, are reportedly at the bottom of the garment manufacturing supply chain. According to the information received by the Special Rapporteur, they are typically given work by small manufacturing businesses or intermediaries who visit their homes and assign them materials and production targets. They are not registered employees and therefore have no labour rights and bear many of the production costs, such as electricity,

[6] See www.somo.nl/publications-en/Publication_3687.

[7] Ibid.

water and workspace. Like women working inside the *maquilas*, they reportedly have to meet extremely high production quotas, which increase over time. If they do not meet the quotas, they are reported to forfeit payment for the work they have completed, and in some instances the work that has been completed is even destroyed in their presence as punishment for not having met the production quota. Women reported other forms of abuse by supervisors, including verbal abuse, being forced to work despite having just given birth, and the sudden cessation of work without notice or payment for work done, as business entities close down and disappear overnight. The Special Rapporteur was also concerned that such practices could be contributing to child labour, as the extremely high production targets that companies assign to workers apparently compel workers to seek assistance from their children.

41. Another sector that was described to the Special Rapporteur as having deeply exploitative working conditions is the private security sector. Private security firms are commonly used in El Salvador to provide protection against gang-related violence. Households and private businesses spend a significant percentage of GDP on the purchase of private security services. Given the increasing demand for those services, there has been high demand for workers in that sector. The workers are reported to be subjected to highly exploitative labour practices that the Special Rapporteur believes could be indicative of the presence of forced labour. They include extremely long working hours, reportedly up to and at times in excess of 24 hours, very low wages, hazardous conditions, deductions from wages to cover weapons and uniforms, and the inability to take rest breaks during working hours.

42. The Special Rapporteur noted that the Government had taken positive steps to tackle cases of forced labour. She received a number of reports that suggested that working conditions in the *maquila* sector had improved over the past 20 years. She commends the Government for that and recognizes that forced labour is criminalized under the Labour Code and that the labour inspectorate has made efforts to ensure compliance with national labour standards. However, information received from the interlocutors she met with suggested that a number of challenges persisted in terms of preventing the eradication of forced labour practices and ensuring the labour rights of all Salvadoran citizens. The challenges included the limited capacity of the labour inspectorate, which is reported to undertake some 25,000 inspections a year among the country's 140,000 businesses, weak penalties for forced labour within the Labour Code, the outdated nature of the Code and a very low rate of prosecution for related offences. Furthermore, she understood that the economic challenges faced by El Salvador and the lack of decent work opportunities are contributing to individual vulnerability to labour market exploitation and incidences of forced labour. As outlined in section V below, the Special Rapporteur urges the Government of El Salvador to implement a range of measures to fully eradicate forced labour and prevent such violations in the future.

C. Worst forms of child labour

43. The Special Rapporteur received multiple reports from a range of stakeholders indicating that the prevalence of the worst forms of child labour in El Salvador has significantly reduced. The Government of El Salvador has led a range of multi-stakeholder initiatives involving partners such as ILO, trade unions and private sector associations of sugar cane plantations. Such initiatives include the development of the National Committee on the Elimination of the Worst Forms of Child Labour, the establishment of a comprehensive road map for the elimination of the worst forms of child labour, the passing by Presidential Decree of procurement guidelines under which those who do business with the Government must commit to the absence of child labour in their operations, investment in data collection on child labour, and the design of an inter-agency protocol on the

prevention of child labour, and on the withdrawal of children and adolescents from child labour, including mechanisms for referral and coordination between the Ministry of Labour and Social Security and other key players. Those wide-ranging initiatives are reported to have resulted in a decrease of over 90 per cent in the worst forms of child labour.[8] The Special Rapporteur commends the Government of El Salvador and its partners for those positive developments. She noted the particular progress that had been made in relation to the worst forms of child labour in the sugar cane sector. In 2015, the Minister of Labour and Social Security and the Sugar Association of El Salvador developed the Cooperation Agreement for the Elimination of Child Labour in the Sugar Cane Industry, which formally establishes sustained multi-stakeholder engagement within the sector between the Government, ILO, trade unions and private sector associations.[9]

44. Despite that progress, the Special Rapporteur received information that suggested that the worst forms of child labour continue to persist in several contexts, including forced begging on the street, and in a number of sectors, such as the fisheries sector, domestic work and agriculture.

45. Forced begging, which is cited by ILO as one of the worst forms of child labour, is reported to take place in San Salvador and other urban centres, including the city of Usulután, which the Special Rapporteur visited. Children are reportedly forced, often by family members, to beg, sell small personal items, perform on the streets and wash car windows in order to collect money. The money must often then be given to family members or others who have forced the children to take part in the activities. Those highly exploitative practices disrupt children's right to an education and leave them highly vulnerable to additional violations of their rights.

46. Within the fisheries sector, children often accompany their parents to work on labour sites. Children and their parents farm for seafood within the mangroves in some parts of El Salvador and then sell what they collect to local traders. When the Special Rapporteur visited Usulután, she visited a mangrove swamp where people fished for molluscs and where it is reported that adult workers take their children to work. Workers with whom the Special Rapporteur met described how a bag of molluscs, which typically took many hours to collect, would sell for a limited amount of money to businesses and intermediaries who used the produce in restaurants. For example, one worker told the Special Rapporteur that 60 clams would sell for about US$ 2.75, which contrasted sharply with the retail cost of the seafood within local restaurants. During her visit, the Special Rapporteur saw first-hand the dangerous conditions in which people work. She is deeply concerned by the use of child labourers in that context. Workers, including children, often smoke in order to repel mosquitos and they are vulnerable to illness because of the long exposure to water and changing temperatures. The workers the Special Rapporteur met with also reported the increasing risk of gang violence faced by those working in the mangrove swamps, further highlighting the hazards to which children can be exposed.

47. The Special Rapporteur received information about children employed in domestic work, in conditions classified as one of the worst forms of child labour. That form of labour affects girls more than boys and migrant children from other Central American countries can be particularly vulnerable. While it is difficult to assess the level of domestic work among children in El Salvador because of the hidden nature of the work, information

[8] See http://azucardeelsalvador.com/fundacion-del-azucar-y-ministerio-de-trabajo-y-prevision-social-renuevan-convenio-de-cooperacion-para-la-erradicacion-de-trabajo-infantil-en-cana-de-azucar/.

[9] See ILO, "El Salvador renueva Convenio de Cooperación para la Erradicación de Trabajo Infantil en Caña de Azúcar", 2015. Available from www.ilo.org/sanjose/sala-de-prensa/WCMS_380559/lang--es/index.htm.

compiled by the Ministry of Education in 2013 suggested that 8.87 per cent of children aged under 14 carried out domestic work, despite the provision in the Child and Adolescent Protection Act establishing the minimum age for domestic service as 16 years of age.[10] Human Rights Watch investigations into that phenomenon in several countries including El Salvador found that child domestic workers can work up to 16 hours a day, 7 days a week. They are poorly paid and can be highly vulnerable to physical and sexual abuse.[11] Despite those deeply concerning conditions, the Special Rapporteur did not get the impression that domestic work among children and young people had to date been an area of focus of efforts to eradicate the worst forms of child labour in El Salvador. She recommends that the Government take immediate steps to address that issue.

48. While the Government of El Salvador has clearly made a strong commitment to eliminating the worst forms of child labour and has achieved significant progress, a number of challenges persist. The Special Rapporteur was informed that the labour inspectorate conducts only two inspections a month to regulate the use of child labour. Furthermore, it does not include domestic work in its inspections, as such work takes place in private households or in the informal sector. That lack of coverage of sectors in which the worst forms of child labour are present creates labour protection gaps. The Special Rapporteur received information about additional challenges, including the social acceptance of the worst forms of child labour in much of Salvadorian society and the lack of decent work opportunities for parents, which compels them to allow or at times force their children to engage in the worst forms of child labour.

49. The Special Rapporteur is concerned about the continued existence of some of the worst forms of child labour; she got the impression that those affected were in deeply disadvantaged and highly vulnerable situations. As outlined in section V below, she urges the Government of El Salvador and its partners to build on their existing examples of good practice to ensure the total elimination of all of the worst forms of child labour. That will require them to take a holistic approach that tackles both continuing cases of the worst forms of child labour and its complex root causes.

D. Domestic servitude

50. It is not only children who are victims of domestic servitude in El Salvador. Interlocutors who met with the Special Rapporteur described how there are also cases of adults who are subjected to that severe form of exploitation. The Ministry of Labour and Social Security was not able to provide disaggregated statistics on the prevalence of domestic servitude, but it indicated to the Special Rapporteur that while a majority of victims were Salvadoran, migrants from other Central American States were also vulnerable to that form of servitude. While statistics were also not available on the gender breakdown of domestic workers, many stakeholders reported to the Special Rapporteur that the majority of those employed in domestic work are women.

51. Domestic work operates outside the scope of labour regulation in El Salvador, with employers reportedly not being compelled to give employees a written employment contract and the labour inspectorate not covering that sector. While not all instances of domestic work constitute servitude, domestic workers are highly vulnerable to forced labour practices and other severe forms of related abuse. The Special Rapporteur received concerning reports of non-payment of domestic workers, sudden cessation of work without pay or notice, extremely long working hours, verbal and physical abuse, unfounded accusations against

[10] See www.unicef.org/elsalvador/Informe_de_situacion_de_la_NNA_en_El_Salvador.pdf

[11] See www.hrw.org/news/2011/06/09/ilo-adopt-new-treaty-combat-child-labor

workers, sexual abuse by male household members and restrictions of the freedom of movement of workers.

52. It was clear to the Special Rapporteur that the Government of El Salvador recognized the issue of domestic servitude as a key concern. She received information about the development of a procedural manual to support migrant domestic workers in gaining residency and thus reducing their vulnerability to exploitation, as well as efforts to ratify the ILO Domestic Workers Convention, 2011 (No. 189). She commends the Government for taking those steps, but remains concerned about the vulnerability and abuse of such workers who remain behind closed doors and without access to any form of labour rights. The Special Rapporteur therefore recommends that the Government increase its efforts to eradicate those practices and that it close the protection gaps that currently exist in the national legal and institutional framework.

E. Lack of access to justice for victims of servitude

53. Access to justice for victims of all forms of slavery is essential for the rehabilitation and reintegration of individuals, as well as in order to address systemic impunity for such crimes. The Special Rapporteur received information from a number of different sources that suggested that victims of many different forms of contemporary slavery in El Salvador faced significant barriers to access to justice and redress. The barriers include difficulties filing complaints to the authorities, low prosecution rates for many forms of slavery, corruption among some government officials and a lack of adequate protection for victims within the judicial system. According to information received by the Special Rapporteur, both historical victims of slavery, such as those subjected to servitude in the context of the civil war, and current victims have experienced those barriers. The denial of the right to access to justice creates high levels of impunity for violations of people's human rights. That undermines the rule of law and creates an environment in which it is more difficult for the Government of El Salvador to promote and protect the human rights of all citizens.

54. In order to move forward and ensure the eradication and prevention of all forms of contemporary slavery, the Government of El Salvador must dedicate resources and attention to providing access to justice for victims of all forms of servitude, as indicated in more detail in section V below.

F. Situations of servitude in transit

55. The Special Rapporteur received some information of concern relating to potential situations of servitude when Salvadoran citizens are in transit to other countries. As discussed in section III above, El Salvador has a high level of emigration driven by various factors, including family reunification and economic reasons. The Special Rapporteur received information that suggested that precarious, irregular migration in order to escape gang violence is increasing. Within the context of those trends, the Special Rapporteur was told that Salvadoran migrants, including unaccompanied minors, can be subjected to situations of servitude in transit, such as severe labour exploitation or being forced to transport drugs under duress. She recognizes the commitment made by the State to Salvadorans abroad within the 2014-2019 national development plan,[17] the protections included in the Special Act on the Protection and Advancement of Salvadoran Migrants and Their Families, adopted on 17 March 2011, and the work of the National Council for the Protection and Advancement of Migrants and Their Families. While the Special Rapporteur

[17] See www.presidencia.gob.sv/wp-content/uploads/2015/01/Plan-Quinquenal-de-Desarrollo.pdf.

did not receive extensive information about slavery-like practices in transit, she urges the Government of El Salvador to build on current efforts and work with countries in the region and the international community to investigate potential situations of servitude and ensure comprehensive protection for individuals who are affected by or at risk of such practices.

G. Early marriage

56. Statistics produced by UNICEF estimate that in El Salvador, 5 per cent of girls are married before the age of 15 and that 25.4 per cent are married before the age of 18.[11] During her visit, stakeholders informed the Special Rapporteur that, while the law establishes the age of marriage at 18, there are exceptions, and early marriages between girls under 18 and older men are perceived as normal by much of Salvadorian society. As indicated by Anti-Slavery International, not all early marriages can be classified as forced marriage, particularly when the girl is an older teenager and is married to a male of a similar age. However anecdotal evidence collected by Anti-Slavery International suggests that globally, the proportion of early marriages that are forced is high. The Special Rapporteur did not receive concrete information of concern relating to instances of forced, early marriage while in El Salvador. However information she received suggests that there is limited understanding of the dynamics of early marriage in the country. She is therefore concerned about whether there are hidden cases of forced marriage among girls under 18. The Special Rapporteur recommends that the Government of El Salvador invest in increasing data collection and monitoring in relation to early marriage in order to ensure that situations of, or risk of, servitude are detected and addressed.

V. Conclusions and recommendations

A. Conclusions

57. **During her visit the Special Rapporteur identified a complex spectrum of violations relating to contemporary forms of slavery that have a high impact on vulnerable elements of the population whose plight remains invisible. She was deeply concerned to hear of women being subjected to sexual abuse by gang members in slavery-like conditions, and the forced recruitment of children into gang activities. She believes that such practices prime facie constitute slavery-like practices. The Special Rapporteur also received information about other issues of concern, including the worst forms of child labour, forced labour and domestic servitude.**

58. **Such a complex spectrum of contemporary forms of slavery requires a comprehensive and multifaceted response by the Government of El Salvador. As explained in the recommendations below, the Special Rapporteur urges the Government to develop a broad range of initiatives and to build on current efforts to tackle contemporary slavery. Such measures should include strengthening the institutional and legal framework, tackling slavery-like practices in the context of gang activities, increasing access to education, increasing gender parity, further developing child protection systems, increasing access to decent work opportunities, building on success in reducing child labour, fighting forced labour and developing data collection and monitoring systems.**

[11] See www.unicef.org/infobycountry/elsalvador_statistics.html.

59. **Within the context of implementing such a multifaceted programme of change, the Special Rapporteur urges the Government of El Salvador to increase specific attention to the phenomenon of contemporary slavery. During her visit, she noted that awareness of the phenomenon of contemporary slavery was low in El Salvador. The Special Rapporteur noticed that contemporary slavery did not tend to be specifically integrated into legal, policy and institutional mechanisms. In the context of implementing the necessary reforms, she suggests developing a stronger focus in national legal and institutional frameworks specifically on contemporary forms of slavery, as defined in the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.**

60. **Given the significant challenges and constraints faced by the Government of El Salvador, the Special Rapporteur calls upon the international community to increase its technical and financial support to the country. Such support should bolster the Government's capacity to implement the Safe El Salvador Plan, to address root causes of contemporary slavery and to invest in social programming and the preventive capacity of the State. Supporting the Government in achieving the promotion and protection of human rights and implementing the programme of change outlined below will serve to protect individuals from contemporary slavery and ensure that the country can overcome its current challenges and constraints to achieve a more prosperous and peaceful future.**

B. Recommendations

61. **Regarding the legal and institutional framework, the Special Rapporteur recommends that the Government:**

(a) **Strengthen the focus on contemporary slavery as a specific phenomenon in the national legal and institutional framework. It could, for example, consider developing a multi-stakeholder initiative similar to that it has set up on trafficking, or broadening the scope of the national anti-trafficking initiatives to include contemporary forms of slavery;**

(b) **Continue the process of ratifying the ILO Domestic Workers Convention, 2011 (No. 189) and ensure that it enters into force in El Salvador as soon as possible;**

(c) **Fully ratify the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;**

(d) **Increase administrative and criminal penalties for forced labour in the Labour Code;**

(e) **Ensure that the proposed legal amendment to the implementation of the Labour Code, including the provisions on strengthening the labour inspectorate and increasing labour market protection for domestic workers, is passed by the legislature;**

(f) **Introduce any further amendments to the Labour Code that are necessary to ensure that it complies fully with international law;**

(g) **Continue to build the national child protection system and ensure that it has adequate capacity to protect children who are at risk of or are subjected to contemporary slavery and associated human rights abuses;**

(h) **Ensure that all legal provisions concerning child marriage are in accordance with international human rights standards and provide protection against forced marriage, including by giving consideration to removing any exceptions to the legal age for marriage as 18;**

(i) **Develop a comprehensive national network of shelters for victims of violence relating to contemporary slavery.**

62. **Regarding contemporary slavery in the context of gang activities, the Special Rapporteur recommends that the Government:**

(a) **In consultation with all key stakeholders, and in the context of the implementation of the Safe El Salvador Plan, develop a comprehensive range of targeted measures to put a stop to the situations of sexual exploitation in slavery-like conditions and forced recruitment of children and others that are currently perpetrated by gangs;**

(b) **Review the legal provisions related to conjugal visits in prisons in order to ensure adequate protection of women's rights and prevent slavery-like practices, and ensure the full and effective implementation of those provisions;**

(c) **Avoid any criminalization of women and children who may have conducted criminal activities while subjected to slavery-like practices in the context of gang activity;**

(d) **In the context of reducing gang violence, avoid weakening the legal protection available to juvenile offenders and ensure that all legal provisions concerning juvenile offenders are fully compliant with the Convention on the Rights of the Child;**

(e) **Ensure the effective implementation of the Safe El Salvador Plan in order to achieve a full-scale reduction in gang violence and make certain that the plan is implemented in full respect of all international human rights standards;**

(f) **Allocate specific resources to ensuring the protection of the rights of women and children in its efforts to eradicate gang violence and ensure that consideration of their rights and specific needs and vulnerabilities are mainstreamed in all security-related policies and practices;**

(g) **Ensure that comprehensive rehabilitation programmes are in place to support those who have been subjected to slavery-like practices by gangs to reintegrate into Salvadorian society.**

63. **Regarding gender discrimination, the Special Rapporteur recommends that the Government:**

(a) **Tackle all forms of gender discrimination in El Salvador, with a particular focus on ensuring that men and women have equal access to education and equal decent work opportunities as key means of preventing contemporary forms of slavery;**

(b) **Continue efforts to ensure women's representation at all levels of Government and in State decision-making entities;**

(c) **Ensure that gender considerations are mainstreamed into all laws, policies and programmes in El Salvador, with a particular focus on those relating to the prevention and eradication of contemporary forms of slavery.**

64. **Regarding access to education, the Special Rapporteur recommends that the Government:**

(a) **Ensure access to all levels of education for children and young people in El Salvador as a key preventive measure against contemporary slavery and pursue and extend current initiatives designed to ensure children's access to education;**

(b) **In the context of those initiatives, allocate additional specific resources to ensuring equity of educational provision between rural and urban areas;**

(c) **Ensure that adequate educational provision is available to children at the higher levels of education in order to prevent the high dropout rate caused by a lack of available provision;**

(d) **Provide additional security in schools in order to protect them from gang violence and remove the disincentives linked to insecurity that currently contribute to school dropout rates;**

(e) **Allocate specific resources to investing in early childhood education as a key means of preventing violence and exploitation;**

(f) **Ensure that programmes are in place to enable children who have had to leave education for periods of time, including due to being victims of contemporary forms of slavery, to transition smoothly back into educational institutions, thus supporting their reintegration and recovery and helping to protect against further violations of their rights;**

(g) **Develop vocational training opportunities for adolescents and young people in order to facilitate their transition into decent work, which will help protect them from contemporary forms of slavery.**

65. **Regarding decent work opportunities, the Special Rapporteur recommends that the Government:**

(a) **Ensure that the programmes designed to facilitate young people's access to employment opportunities are extended to cover all areas of the country;**

(b) **Accelerate current initiatives designed to increase the minimum wage and ensure that the amount agreed upon constitutes a living wage for citizens in El Salvador;**

(c) **Ensure that an environment conducive to trade union activity is encouraged across all sectors and that the rights to freedom of association and collective bargaining are universally respected.**

66. **Regarding forced labour, the Special Rapporteur recommends that the Government:**

(a) **Based on the good practice it has developed in relation to eliminating child labour, develop a scheme whereby all public procurement contracts contain clauses to ensure the absence of forced labour;**

(b) **Increase the capacity and expertise of the labour inspectorate in order to ensure compliance with the legal standards prohibiting forced labour;**

(c) **Ensure that the coverage of the labour inspectorate is increased to include all areas of the country and all areas of the informal sector;**

(d) **Review the regulatory framework in place concerning the labour practices of businesses that operate, directly or through their supply chains, in**

El Salvador, to ensure that it protects the rights of Salvadoran citizens and is in accordance with international human rights standards, relevant ILO conventions and the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.

67. Regarding the worst forms of child labour, the Special Rapporteur recommends that the Government:

(a) Continue multi-stakeholder initiatives to eliminate the worst forms of child labour, drawing on existing examples of good practice and ensuring that the initiatives are extended to cover all sectors in which children engage in the worst forms of child labour;

(b) Increase the capacity of the labour inspectorate to ensure that employers comply with the legal standards criminalizing the use of the worst forms of labour;

(c) Allocate specific resources to tackling the exploitative and dangerous practice of forcing children to beg;

(d) Prioritize child domestic work in ongoing efforts to tackle the worst forms of child labour;

(e) In the context of the implementation of the Sustainable Development Goals, continue and increase targeted poverty reduction programmes that mitigate the need for families to have their children engage in the worst forms of child labour, including by investigating how current conditional cash transfer programmes can be further utilized to prevent the worst forms of child labour;

(f) Raise awareness among parents in communities affected by the phenomenon about the risks associated with the worst forms of child labour in sectors including agriculture, fisheries, mollusc farming and forced begging, including by challenging the cultural beliefs that continue to contribute to the acceptance of the worst forms of child labour.

68. Regarding domestic servitude, the Special Rapporteur recommends that the Government:

(a) Develop specific protection for migrants who come to El Salvador in order to ensure that they are not subjected to situations of domestic servitude;

(b) Investigate models of regulation whereby the Ministry of Labour and Social Security and the labour inspectorate could develop oversight of work undertaken within private homes;

(c) Ensure the timely ratification of ILO Domestic Workers' Convention, 2011 (No. 189) and its full incorporation into the national legal framework.

69. Regarding access to justice, the Special Rapporteur recommends that the Government:

(a) Ensure that all historical and current violations of the rights of those subjected to contemporary slavery are addressed through effective and proportionate forms of remedy;

(b) Increase the capacity of the judiciary to try violations of the Labour Code;

(c) Increase the focus on victim protection within the judicial system, including the development of specific protocols to protect women and children;

(d) **Ensure that those who are victimized by gangs are able to access justice and are not criminalized for any action taken while subjected to situations of servitude.**

70. **Regarding data collection, monitoring and evaluation, the Special Rapporteur recommends that the Government:**

(a) **Collect disaggregated information on the prevalence of all the contemporary forms of slavery that she has identified;**

(b) **As part of that endeavour, ensure that data is collected about the prevalence and modalities of early marriage within El Salvador in order to effectively detect any practices that could constitute forced marriage;**

(c) **Increase the capacity of the State to collect data on factors such as age, gender, migration status and socioeconomic circumstances that create vulnerability to contemporary slavery;**

(d) **Routinely monitor and evaluate the efficacy of all interventions to prevent and eradicate contemporary slavery.**

71. **The Special Rapporteur recommends that the international community:**

(a) **Increase the amount of international aid provided to the Government of El Salvador in order to effectively address complex national challenges, with a view to supporting implementation of the Safe El Salvador Plan and initiatives to tackle more deep-seated root causes of current phenomena that cause or create vulnerability to contemporary slavery;**

(b) **Increase the level of technical support that is provided to El Salvador;**

(c) **Support El Salvador and other countries in Central America to investigate and tackle issues relating to situations of servitude in transit that affect vulnerable and irregular migrants from the country.**